



Lynda M. Connolly
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TRANSMITTAL NO. 859

Last Transmittal No. to:

First Justices 858

Other Judges 855

Clerk-Magistrates 858

CPOs/POICs ---

FIRST JUSTICES: *Please distribute the second copy (enclosed) of this memorandum to the clerk-magistrate of the court. Other judges will receive their copies directly from this office.*

MEMORANDUM

TO: District Court Judges and Clerk-Magistrates
FROM: Hon. Lynda M. Connolly, Chief Justice
DATE: October 7, 2004
SUBJECT: **Standing Orders on Civil and Criminal Time Standards and Criminal Case Management**

Enclosed are three standing orders concerning criminal and civil time standards and criminal case management in the District Court. All three have an effective date of Monday, November 1, 2004.

The promulgation of these standing orders reflects the Trial Court's emphasis on improved caseflow management and the continuing commitment of this office to this important subject.

Together with Joint Standing Order 1-04 involving civil case management in the District Court and Boston Municipal Court Departments (which was promulgated on August 31, 2004 and distributed with the materials on the civil one trial system, Trans. 854, August 27, 2004), these standing orders will provide a basis for future training and educational efforts. These efforts will also involve the District Court's Ten Principles for both criminal and civil caseflow management.

Pursuant to Uniform Trial Court Rule V, these standing orders must be posted in all clerk-magistrates' offices not less than fifteen days prior to their effective dates and must be added to the index and file of all standing orders in effect in the District Court Department maintained in the office of each clerk-magistrate.

I. Joint Standing Order No. 2-04, Time Standards for Civil Cases.

This standing order sets forth time standards for all civil actions in the District Court Department. It was developed in consultation with the Boston Municipal Court Department and is jointly applicable in both departments.

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For most case types, the standing order provides a single maximum time to disposition.

For summary process, small claims and tort and contract cases a “staircase” approach is used assigning a different maximum time to disposition for differing percentages of dispositions.

Tort and contract cases also have specific maximum time periods between court events.

Judges should be mindful of these maximum time periods when scheduling court events and when considering motions for continuances.

II. Joint Standing Order No. 3-04, Time Standards for Criminal Cases.

Joint Standing Order No. 3-04 sets out specific time limits for the movement of criminal cases to disposition. It was developed in response to a request from the Chief Justice for Administration and Management for an order providing criminal case “tracks” with specific time limits for each court event and for final disposition in every criminal case. It was developed in collaboration with the Boston Municipal Court Department and is jointly applicable in both departments.

The proper track for each case is determined by the maximum penalty for the crime charged: cases with a maximum sentence of six months or less are on Track A; those with a maximum sentence of more than six months are on Track B. Where a case has multiple charges, it is considered a Track B case if any charge has a maximum penalty of more than six months.

In each criminal case, the Clerk-Magistrate (or his or her designated staff person) should check the criminal complaint which provides the applicable statutory sentence and then indicate the proper track for that case on the file folder. This will enable the judge to know the proper track for that case and to determine the maximum time within which to schedule each court event in that case.

The time limit for any court event, and for final disposition, may be extended for good cause found by the Court and stated on the record.

Judges should be mindful of these time standards in scheduling court events and should take the opportunity to work with clerk-magistrates and the defense and prosecution bars to promote compliance with these time standards to achieve the goal of eliminating unnecessary delay in criminal cases. Assistance in proper implementation of these time standards and in addressing any problems they may present will be available from the Regional Offices.

III. District Court Standing Order No. 4-04, Performance Goals for Criminal Cases.

This standing order provides a basis for evaluating criminal case management at each district court. It focuses on actual dispositions and when they occurred. It does not attempt to distinguish

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dispositions based on tracks. It provides flexibility to reflect the differing caseloads among the individual district courts.

We are now attempting to develop the methods by which the dispositional data necessary for making periodic assessments under this order may be obtained.

IV. Continuing focus on Caseflow Management.

We hope to address the subject of Caseflow Management and, in particular, the enclosed standing orders for criminal cases, at the conference for Clerk-Magistrates and First Justices scheduled for December 10, 2004. (See Trans. 858, September 22, 2004.) I welcome your comments on these orders and your suggestions relating to our implementation efforts in each of our divisions.

LMC:cd

Enclosures



Trial Court of the Commonwealth

Boston Municipal Court Department

District Court Department

Joint Standing Order No. 2-04

TIME STANDARDS FOR CIVIL CASES

I. INTRODUCTION

These time standards are promulgated to provide judges and clerk-magistrates with specific maximum time periods within which civil cases (1) should progress between court events and (2) should be disposed. The purpose of these time standards is to promote timely disposition of civil cases and to provide a basis for assessing the movement of civil cases from commencement to disposition in each division of the two departments in which they apply.

The time standards are divided into three categories, each comprised of specific types of civil actions (“casetypes”) and each governed by a specific standard for a maximum time to disposition.

In general, these three time standard categories reflect the complexity (or potential complexity) of the casetypes each includes, with the least complex in Category A, the more complex in Category B, and the most complex (or potentially complex) in Category C.

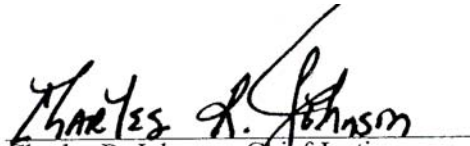
The casetypes in Category A consist mainly of actions that by law must be disposed well within the two-month maximum. For these cases the time standard will provide a basis for periodically confirming that no cases are unaccounted for or overlooked.

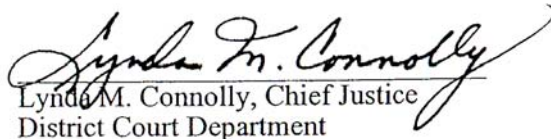
Two casetypes in Category B, summary process and small claims, have “staircased” time standards to reflect the fact that significant numbers of these cases should be disposed well before their overall maximum time to disposition.

Category C, which consists of tort and contract actions, also has “staircased” time standards to reflect the fact that most of these cases should be disposed well before the overall maximum time limit.

II. THE TIME STANDARDS

CATEGORY A - Time to Disposition: Upon Filing or <u>Not More Than 2 months</u> from commencement	
<ul style="list-style-type: none"> Domestic Violence Restraining Orders Actions for Equitable Relief for Residential Lock-Outs and Utility Shut-Offs Mental Health Proceedings Applications for Marriage Age and Time Waivers Actions to Enforce Sanitary Code 	
CATEGORY B - Time to Disposition: <u>Not More Than 4 months</u> from commencement	
<ul style="list-style-type: none"> Summary Process: 50% NMT 1 month; 90% NMT 2 months; 100% NMT 4 months Small claims: 75% NMT 2 months; 100% NMT 4 months. * Civil Motor Vehicle Infractions * Supplementary Process Judicial Review of Administrative Decisions ** Other Specialized District Court and Boston Municipal Court Actions ** <p>* 5 months if de novo appeal is claimed **See attached list</p>	
CATEGORY C - Tort and Contract Actions	
C-1 75% of Total Dispositions	Time to Disposition: <u>Not More Than 6 months</u> from commencement <ul style="list-style-type: none"> Cases dismissed for plaintiff's failure to make timely service Cases disposed by default judgment Cases disposed by voluntary dismissal, agreement for judgment or other consensual disposition
C-2 20% of Total Dispositions	Time to Disposition: <u>Not More Than 12 months</u> from commencement <ul style="list-style-type: none"> Cases disposed by bench trial Cases disposed by voluntary dismissal, agreement for judgment or other consensual disposition Cases dismissed for plaintiff's failure to seek default judgment
C-3 5% of Total Dispositions	Time to Disposition: <u>Not More Than 24 months</u> from commencement <ul style="list-style-type: none"> Cases disposed by jury trial Cases disposed by bench trial after having been scheduled for jury trial Cases disposed by voluntary dismissal, agreement for judgment or other consensual disposition after having been scheduled for trial
Maximum Intervals Between Court Events: <ul style="list-style-type: none"> From Answer to Case Management Conference Date: Not More Than 4 Months From Case Management Conference to Pretrial Conference Date: Not More Than 7 Months From Pretrial Conference to Trial: Not More Than 3 Months 	


 Charles R. Johnson, Chief Justice
 Boston Municipal Court Department


 Lynda M. Connolly, Chief Justice
 District Court Department

Promulgated: October 1, 2004
 Effective: November 1, 2004

APPENDIX

Category B – Boston Municipal Court and District Court Actions for Judicial Review of Administrative Agency Decisions

- Abandoned property appeals
- Unemployment compensation appeals
- Motor vehicle insurance property appeals
- Firearms license denied appeals
- County Personnel Board and involuntary retirement appeals
- Zoning appeals
- Dog order appeals
- Arbitration appeals regarding residential repair contracts
- Appeals from Historic District Commission decisions
- Civil service retirement appeals
- Appeals from Funeral Directors' Board of Registration decisions
- Review of decisions of Massachusetts Commission Against Discrimination
- Review of certain Board of Health abatement orders

Category B – Other Boston Municipal Court and District Court Civil Actions

- Actions to enforce certain real estate liens
- Replevin
- Garage and automobile liens
- Repossession
- Actions to assess support against kindred of persons in need
- Actions by jurors against employers who fail to compensate employees who perform jury service
- Actions seeking a decree of forfeiture and sale with regard to property seized by law enforcement personnel because of an offense
- Hearings at the request of a municipal tax collector on a taxpayer's ability to pay a tax
- Applications for waiver of the three-day period prior to issuance of marriage license
- Applications by minors for authorization to marry
- Actions to enforce the state sanitary code
- Actions by the Commissioner of Medical Assistance seeking entry of judgment regarding overpayments made to a provider of medical care under G.L. c. 118E
- Forfeiture proceedings regarding certain explosives and flammable substances
- Proceedings to compel testimony before the State Fire Marshal
- Orders by a District Court to expunge certain entries in the records of the Department of Probation and the Criminal History Systems Board
- Proceedings for violations of certain municipal ordinances or by-laws that are treated as civil infractions
- Actions to enforce discovery in cases pending in other states; and
- Actions regarding condominium conversions



Trial Court of the Commonwealth

Boston Municipal Court Department

District Court Department

Joint Standing Order No. 3-04

TIME STANDARDS FOR CRIMINAL CASES

1. AUTHORITY

This Standing Order is jointly promulgated by the Chief Justice of the Boston Municipal Court Department and the Chief Justice of the District Court Department pursuant to their statutory responsibility for case management under G.L. c. 211B, §10 and uniform practices under G.L. c. 218, § 43A.

2. PURPOSE

These time standards are intended to reaffirm the goals of “simplicity in procedure, fairness in administration, and the elimination of expense and delay,” as provided by Mass. R. Crim. P. 2(a). Recognizing that excessive delay can undermine public confidence in the delivery of justice in our courts, the following time standards have been established to advance the expeditious and just disposition of all criminal matters.

3. TIME STANDARDS

There shall be two track designations for criminal cases commenced within the final jurisdiction of the Boston Municipal and District Court Departments. Track A shall include all criminal offenses which provide a maximum period of incarceration of six months or less, including all criminal offenses which carry no term of imprisonment and are punishable only by fine. Track B shall include all criminal offenses punishable by a period of incarceration longer than six months.

The maximum time to disposition for Track A cases shall be five months. The maximum time to disposition for Track B cases shall be twelve months. If a defendant is charged with one or more Track A and Track B offenses in a single complaint, the case shall be treated as Track B for all purposes. Cases may be transferred from Track A to Track B, or the maximum time period allowable between court events may be extended, only by a judge for demonstrated good cause stated on the record. Requests to alter the track designation of cases or to extend a maximum

time period within a track shall be evaluated consistent with the purposes of this Order set forth in paragraph 2. Nothing in this Order shall be construed to deter resolution of cases prior to the maximum time limits standards set forth herein.

Consistent with the applicable provisions of the Mass. R. Crim. P. and the Dist./Mun. Cts. R. Crim. P., the time between court events in criminal cases shall be as follows:

Track A:

- From Arraignment to Pretrial Hearing date: Not more than 45 days;
- From Pretrial Hearing to Motion/Compliance/Election date: Not more than 45 days;
- From Motion/Compliance/Election date to Trial date: Not more than 45 days.

Track B:

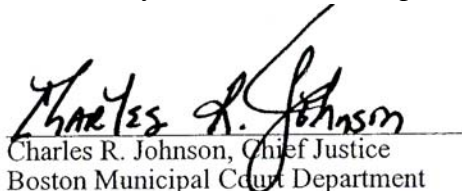
- From Arraignment to Pretrial Hearing date: Not more than 45 days;
- From Pretrial Hearing to Motion/Compliance/Election date: Not more than 60 days;
- From Motion/Compliance/Election to Trial date: Not more than 90 days.

4. CRIMINAL CASE MANAGEMENT

Performance goals for criminal case management in the Boston Municipal Court Department shall be determined by the Chief Justice of the Boston Municipal Court Department.

Criminal case management in the District Court Department shall be assessed in accordance with District Court Standing Order No. 4-04, Performance Goals for Criminal Case Management.

Computation of the time periods set forth above shall exclude any time during which the defendant is legally unavailable to proceed with the criminal case, e.g., time during which the defendant is in default and periods of time during which the defendant is under a term of involuntary civil commitment pursuant to the provisions of G.L. c. 123.


Charles R. Johnson, Chief Justice
Boston Municipal Court Department


Lynda M. Connolly, Chief Justice
District Court Department

Promulgated: October 1, 2004

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Trial Court of the Commonwealth District Court Department

Standing Order No. 4-04

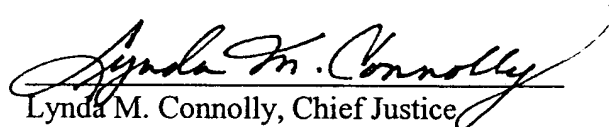
PERFORMANCE GOALS FOR CRIMINAL CASE MANAGEMENT

In the District Court Department criminal case management in each division will be assessed from time to time in terms of overall time to disposition for the court's entire criminal caseload.

The performance goals will be as follows:

<u>Dispositions</u>	<u>Maximum time from arraignment to disposition</u>
80 - 90%	Not more than four months
91 - 98%	Not more than six months
100%	Not more than twelve months

In determining time to disposition under this Order, any time during which the defendant is legally unavailable to proceed with a case (e.g., time during which a defendant is in default or under civil commitment) will not be included.


Lynda M. Connolly, Chief Justice
District Court Department

Promulgated: October 1, 2004

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Commentary

The Criminal Time Standards in Joint Standing Order 3-04 provide two tracks for time-to-disposition and standards for intervals between court events. They are intended to provide specific time limits at the outset of each case to enable the judge to avoid delay as that case moves forward. Factors can emerge in any case that will determine whether these limits are unnecessarily long (e.g., “driving uninsured” cases normally should be disposed of quickly, despite being on Track B) or unreasonably brief (e.g., despite being on Track A, a minor case may require more than four months if the defendant demands a jury trial or if the case involves significant economic consequences). In any event, the Joint Criminal Time Standards provide that the track limit in any particular case may be extended for good cause stated on the record.

The District Court criminal case management goals set forth in *this* Standing Order focus on each court’s actual criminal dispositions, rather than governing cases as they proceed. They assess performance in terms of the court’s entire criminal caseload, irrespective of tracks.

This assessment approach avoids subdividing actual dispositions in terms of the penalties available by statute for each case, and thus simplifies the assessment process. This approach also appropriately accounts for cases that should be disposed of quickly, though they have been placed initially on the twelve-month track.

This assessment approach also provides flexibility to reflect the different types of caseloads in the District Court divisions. A court with relatively few time-consuming criminal cases (generally rural or suburban courts with high proportions of motor vehicle offenses and other minor, non-violent crimes) may have a higher percentage of dispositions within the four-month limit and fewer within the six-to-twelve month limit. For case management assessment purposes the breakdown for such a court might be 90%, 98%, 100%.

By comparison, an urban court with a higher proportion of crimes involving violence, drug charges and repeat offenders would be expected to have a higher percentage of dispositions in the six-to-twelve-month range and proportionately fewer within the four-month limit. Such a court may have a breakdown for case management assessment purposes of 80%, 92%, 100%.

The point is that both courts will be within the performance goals.

The assessment will take into account cases commenced in one court but disposed in a jury session that is provided in another court.

It is important to note that when the case management of individual courts is assessed, the process will allow court personnel – judges, clerk-magistrates, chief probation officers, and staff – to review court practices and procedures and identify strengths and any weaknesses. Regional and Administrative Office personnel will be available to assist in appropriate circumstances. It is anticipated that this comprehensive, coordinated approach, which is an approach followed by the American Bar Association in its caseflow management recommendations, will provide a meaningful opportunity for all court components to effectively collaborate in the timely movement of criminal cases to disposition.